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| **Elder Abuse Issues Paper Response**  **Question 1**  **To what extent should the following elements, or any others, be taken into account in describing or defining elder abuse:**   * **harm or distress**   Harm and distress is extremely relevant in elder abuse. In the hospital situation, we frequently find issues of fraud. With many older people, they will make formal arrangements with family to sign over property with verbal agreements that family will assist with financials if they need to go to residential care in the future and the verbal arrangement is not kept leaving the older person in a difficult position. Another example will be that families will tell us that there relative needs to go to a nursing home and will be quite forceful with staff, the patient is often competent to decide to take the risk to return home. This is very distressing for the patient and is quite complex to sort out.   * **Intention**   I believe that intention should not be relevant as a key element. Neglect is also a common form of elder abuse particularly with patients with a cognitive decline. The only situation where intent should be considered is if the ‘perpetrator’ of the neglect has a cognitive issue.   * **payment for services**   Payment for services should definitely be considered as an element. This is definitely an area where there should be an ‘expectation of trust’ as people are paying for services. | . |
| **Question 2**  **What are the key elements of best practice legal responses to elder abuse?**  I think that the Federal Government needs to standardise approaches to guardianship and powers of attorneys. It is not uncommon for patients to need to transfer between states. It is really important the documentation that is developed in one state be able to be used in another state so that the whole process doesn’t need to be replicated. An example of potential issue may involve a patient with wandering dementia who is transferring from a hospital to a Residential Aged Care Facility in another state. If the guardianship order is not recognised, the patient may not be able to be held in a secure facility until a new order is sorted in that state. | . |
| **Question 3**  **The ALRC is interested in hearing examples of elder abuse to provide illustrative case studies, including those concerning:**   * **Aboriginal and Torres Strait Islander people;** * **people from culturally and linguistically diverse communities;** * **lesbian, gay, bisexual, transgender or intersex people;** * **people with disability; or** * **people from rural, regional and remote communities.**   Rural/Regional:  One example I mentioned earlier involved a family who worked their parent’s farm, they made formal arrangements with their mother to sign over property with verbal agreements to assist with financials if they need to go to residential care in the future. The mother did the formal paperwork to sign the farm over and the verbal arrangement was not kept leaving her in a difficult position.  Another example a staff member sited involved a lady with dementia. Her mobility had deteriorated significantly and she could only crawl around. Her family wanted her to continue at home and thought it was okay for her to crawl around the house.  We sometimes meet patients who have family members who will only do tasks for their relatives if they are paid to do it and the patients have no choice as they have no other means of support.  Many years ago, I met one relative in the community (in another role outside of the hospital) who cared for his mother who had significant dementia. While I soaked the stockings and dried skin off her feet and trimmed her nails which were curling under and cutting the sole of her feet, he constantly talked about how stupid and ignorant she was. He kept saying he’d tell her to have a shower and she wouldn’t. He had service workers in, but stated he wasn’t going to waste his money as they couldn’t always get her to agree to having a shower so he said he sacked them 6 months prior.  We had another lady with dementia. Her husband was a carer. He would leave her alone at home for long periods and she was unable to walk. She came to hospital via ambulance as he had left her at home by the heater and she had significant burns.  We had another patient whose son would leave her alone at home all day. She was immobile and incontinent. She was a referral from Tas Ambulance post them assisting pick her up after she rolled out of bed. | . |
| **Question 4**  **The ALRC is interested in identifying evidence about elder abuse in Australia. What further research is needed and where are the gaps in the evidence?** | . |
| I think it is vital for research in all areas of elder abuse. However this will not be effective until guidelines are developed and public education is undertaken. This will strengthen the framework and give people confidence to report cases of elder abuse. At present it is too ill defined which means that people will be more reluctant to report abuse and any research may not have accurate.  **Question 5**  **How does Centrelink identify and respond to people experiencing or at risk of experiencing elder abuse? What changes should be made to improve processes for identifying and responding to elder abuse?** | . |
| I don’t really deal with Centrelink directly and feel that I am not suitably knowledgeable to comment in this area. I think that all organisations have a responsibility to report elder abuse and provide staff training in this area.  **Question 6**  **What changes should be made to laws and legal frameworks relating to social security correspondence or payment nominees to improve safeguards against elder abuse?** | . |
| I’m a little unsure about how to respond to this question. It is definitely possible for nominees to be set up easily and this could make a person vulnerable. However, POAs, Guardianship and Administration orders are quite complex. If we had to wait for these processes to be put in place, a patient (who needs to go to residential care and unsafe to return home) may have increased length of stay in hospital as asset forms would be unable to be completed without a nominee.  **Question 7**  **What changes should be made to the laws and legal frameworks relating to social security payments for carers to improve safeguards against elder abuse?** | . |
| I feel that I don’t have enough knowledge about Centrelink’s processes to approve carer payments to comment on this topic.  **Question 8**  **What role is there for income management in providing protections or safeguards against elder abuse?** | . |
| I am unsure how I feel about income management altogether and feel that I don’t have enough knowledge on the topic to comment.  **Question 9**  **What changes should be made to residence requirements or waiting periods for qualification for social security payments, or the assurance of support scheme, for people experiencing elder abuse?** | . |
| I feel that this is an area for concern, but not an area I have enough knowledge to comment about.  **Question 10**  **What other risks arise in social security laws and legal frameworks with regard to elder abuse? What other opportunities exist for providing protections and safeguards against abuse?** | . |
| I feel that I don’t have enough knowledge on the topic to comment.  **Question 11**  **What evidence exists of elder abuse committed in aged care, including in residential, home and flexible care settings?** |  |
| In my previous roles in residential aged care settings (8 years ago), mandatory reporting was implemented. We did comprehensive staff, patient and relative education. We actually followed the mandatory reporting guidelines on three occasions while I was there. I haven’t worked in residential care since this time, but believe they have very strict criteria in this area.  **Question 12**  **What further role should aged care assessment programs play in identifying and responding to people at risk of elder abuse?**  I have recently undertaken assessor training and have worked closely with assessors in my role. They are very vigilant around areas of consent and cognition. I have seen them refuse to assess people who need further cognitive assessment, did not consent or medically unstable. They also have a thorough system for follow up any concerns post an assessment. Again I believe that having clearer guidelines and reporting channels as well as staff training will assist with giving people more confidence to report abuse. |  |
| **Question 13**  **What changes should be made to aged care laws and legal frameworks to improve safeguards against elder abuse arising from decisions made on behalf of a care recipient?** |  |
| I don’t currently work in this area and do not have enough current knowledge to comment.  **Question 14**  **What concerns arise in relation to the risk of elder abuse with consumer directed aged care models? How should safeguards against elder abuse be improved?** |  |
| Again, I don’t currently work in this area and do not feel I have enough current knowledge to comment.  However as a general comment, I oversee a Transition Care Program and in some cases we transition people to home care packages on discharge from the program. A concern for us is that some patient’s decisions about care choices may result in hospitalisation as their priorities/choices may not reflect the support required for their health needs.  **Question 15**  **What changes to the requirements concerning quality of care in aged care should be made to improve safeguards against elder abuse?** |  |
| Again, I don’t currently work predominantly in this area and do not feel I have enough current knowledge to comment on a general basis. In our Transition Care Program, we provide our patients with information about the Charter of Care Recipients’ Rights and Responsibilities. We also provide our clients with information about Complaints and Compliments mechanisms. We ask for client feedback both formally and informally.  **Question 16**  **In what ways should the use of restrictive practices in aged care be regulated to improve safeguards against elder abuse?**  I believe that the least restrictive practices should be used in aged care. I believe that environmental restrictions are really important to ensure the safety of patients who wander. I do not like the use of physical restraints, but believe under certain circumstances there is a role for chemical restraints. All restrictive practices need to be done after careful assessment by nursing and medical staff. I believe current practice requires that use of restrictive practices by use of medication of physical restraints needs to be reviewed by General practitioners, family and nursing staff on a regular basis. |  |
| **Question 17**  **What changes to the requirements for reporting assaults in aged care settings should be made to improve responses to elder abuse?**  I believe that the guidelines for reporting assaults are well established in aged care setting. I do believe there needs to be further public education about the guidelines. |  |
| **Question 18**  **What changes to aged care complaints mechanisms should be made to improve responses to elder abuse?**  I believe that the complaints mechanisms are well established. However, I think that public education is required. |  |
| **Question 19**  **What changes to the aged care sanctions regime should be made to improve responses to elder abuse?**  I believe that the current system is well established. However, I think that public education is required. |  |
| **Question 20**  **What changes to the role of aged care advocacy services and the community visitors scheme should be made to improve the identification of and responses to elder abuse?**  I like the concept of the community visitor scheme in Victoria and think it would be beneficial to implement it in other states and territories. Public education about the advocacy role would be beneficial. |  |
| **Question 21**  **What other changes should be made to aged care laws and legal frameworks to identify, provide safeguards against and respond to elder abuse?**  I believe that the current system is well established. However, I think that public education is required. |  |
| **Question 22**  **What evidence exists of elder abuse being experienced by participants in the National Disability Insurance Scheme?**  I don’t work in this area and do not feel I have the knowledge to comment on this question. |  |
| **Question 23**  **Are the safeguards and protections provided under the National Disability Insurance Scheme a useful model to protect against elder abuse?**  I don’t work in this area and do not feel I have the knowledge to comment on this question. |  |
| **Question 24**  **What evidence is there of older people being coerced, defrauded, or abused in relation to their superannuation funds, including their self-managed superannuation funds? How might this type of abuse be prevented and redressed?**  I don’t work in this area and do not feel I have the knowledge to comment on this question. |  |
| **Question 25**  **What evidence is there of elder abuse in banking or financial systems?**  I have met patient’s whose family have financially abused them by accessing bank accounts. In these cases, the patients have given them the pin number. |  |
| **Question 26**  **What changes should be made to the laws and legal frameworks relating to financial institutions to identify, improve safeguards against and respond to elder abuse? For example, should reporting requirements be imposed?**  Other than the information provided in the issues paper, I am unaware of the current systems the banks have in place and feel that my knowledge is insufficient to comment on this question. |  |
| **Question 27**  **What evidence is there that older people face difficulty in protecting their interests when family agreements break down?**  In our role, we would see approximately 4-5 examples of family agreement break downs in a year. It is usually discovered when trying to sort out accommodation payments for Residential Aged Care Facilities. |  |
| **Question 28**  **What changes should be made to laws or legal frameworks to better safeguard the interests of older people when family agreements break down?**  I think that tightening up the guidelines and providing a public education campaign will assist with protecting the interest of older people. For those who have financial difficulties, increasing public knowledge of legal aid and other services who can assist. |  |
| **Question 29**  **What evidence is there of elder abuse committed by people acting as appointed decision-makers under instruments such as powers of attorney? How might this type of abuse be prevented and redressed?**  We rarely see evidence of abuse by POAs. In the last year, we had one patient who was changing her POA. |  |
| **Question 30**  **Should powers of attorney and other decision-making instruments be required to be registered to improve safeguards against elder abuse? If so, who should host and manage the register?**  POAs in Tasmania are registered through Guardianship Board. I think a nation-wide approach would be beneficial. |  |
| **Question 31**  **Should the statutory duties of attorneys and other appointed decision-makers be expanded to give them a greater role in protecting older people from abuse by others?**  Whatever the decision is, we need a nation-wide approach. |  |
| **Question 32**  **What evidence is there of elder abuse by guardians and administrators? How might this type of abuse be prevented and redressed?**  We rarely see evidence of abuse by guardians and administrators. |  |
| **Question 33**  **What role should public advocates play in investigating and responding to elder abuse?**  I think it should be a key part of the role and perhaps increasing the advocates power’s to investigate should be considered. |  |
| **Question 34**  **Should adult protection legislation be introduced to assist in identifying and responding to elder abuse?**  Adult protection legislation could be a good framework for addressing elder abuse. |  |
| **Question 35**  **How can the role that health professionals play in identifying and responding to elder abuse be improved?**  I believe that it is important to develop clear guidelines and framework for reporting abuse. Public education programs need to be developed. This will give health professionals more confidence in reporting suspect elder abuse. |  |
| **Question 36**  **How should professional codes be improved to clarify the role of health professionals in identifying and responding to elder abuse?**  I don’t think that professional codes need to be changed. Most code of ethics talk about a duty of care and I believe this covers identifying and responding to elder abuse. |  |
| **Question 37**  **Are health-justice partnerships a useful model for identifying and responding to elder abuse? What other health service models should be developed to identify and respond to elder abuse?**  I think there are many occasions where a health-justice partnership would be highly beneficial. |  |
| **Question 38**  **What changes should be made to laws and legal frameworks, such as privacy laws, to enable hospitals to better identify and respond to elder abuse?**  The clinician-patient confidentiality and the operation of privacy laws may need to be reviewed to enable abuse to be easily investigated. |  |
| **Question 39**  **Should civil and administrative tribunals have greater jurisdiction to hear and determine matters related to elder abuse?**  It would be good for all cases of elder abuse to be investigated by the one investigative department. However my knowledge of this area is limited to the information provided by the issues paper. |  |
| **Question 40**  **How can the physical design and procedural requirements of courts and tribunals be improved to provide better access to forums to respond to elder abuse?**  My knowledge of this area is limited to the information provided by the issues paper. |  |
| **Question 41**  **What alternative dispute resolution mechanisms are available to respond to elder abuse? How should they be improved? Is there a need for additional services, and where should they be located?**  Use of mediation would be a logical approach as the first approach to addressing elder abuse. |  |
| **Question 42**  **In what ways should criminal laws be improved to respond to elder abuse? For example, should there be offences specifically concerning elder abuse?**  I believe that is better for older people if the criminal justice system treat them in the same way as other citizens. |  |
| **Question 43**  **Do state and territory criminal laws regarding neglect offer an appropriate response to elder abuse? How might this response be improved?**  I don’t have knowledge about the criminal laws in regards to neglect other than the information provided by the issues brief. However, neglect is definitely an issue for elderly people and legislation needs to address this issue. |  |
| **Question 44**  **Are protection orders being used to protect people from elder abuse? What changes should be made to make them a better safeguard against elder abuse?**  I have not seen evidence of use of a protection order for any people affected by elder abuse. |  |
| **Question 45**  **Who should be required to report suspected elder abuse, in what circumstances, and to whom?**  I believe that mandatory reporting of elder abuse should be implemented in all areas not just in Aged Care. |  |
| **Question 46**  **How should the police and prosecution responses to reports of elder abuse be improved? What are best practice police and prosecution responses to elder abuse?**  I believe that it is important to develop clear guidelines and framework for reporting abuse. Public education programs need to be developed. This will give police more confidence in reporting suspect elder abuse. |  |
| **Question 47**  **How should victims’ services and court processes be improved to support victims of elder abuse?**  I don’t have knowledge of the victim’s services and court processes other than the information provided in the issues brief. |  |
| **Question 48**  **How should sentencing laws and practices relating to elder abuse be improved?**  I don’t have knowledge of the sentencing laws and practices other than the information provided in the issues brief. |  |
| **Question 49**  **What role might restorative justice processes play in responding to elder abuse?**  I don’t have knowledge of restorative justice other than the information provided in the issues brief. |  |
| **Question 50**  **What role might civil penalties play in responding to elder abuse?** |  |
| **Other comments?**  I don’t have knowledge of civil penalties other than the information provided in the issues brief. |  |